

**CALIFORNIA CODE OF REGULATIONS  
TITLE 3 – FOOD AND AGRICULTURAL CODE**

**Chapter 3. Milk Stabilization and Marketing of Milk and Dairy Products**

**Subchapter 1. Unlawful Practices in Marketing Milk and Dairy Products**

**Article 4. Gifts and Free Services**

**Section 1873. Sampling of Milk and Dairy Products.**

**Authority cited: Sections 407 and 61341, Food and Agricultural Code**

**Reference: Section 61383**

A distributor or wholesale customer or their representative may offer ~~the sampling~~ samples of milk or dairy products to the public under the following conditions:

- (a) For all products in labeled, closed containers, the following restrictions shall apply: (1) ~~For fluid Class 1 products—the product to be sampled must not exceed four (4) fluid ounces. For all Class 1 products as defined in FAC Section 61932, and buttermilk, eggnog, UHT products, and yogurt, the product to be sampled must not exceed 8 fluid ounces.~~ (2) ~~For Classes 1 (except fluid), 2, 3, 4a and 4b products—the product to be sampled must not exceed two (2) ounces by weight. For all other Classes of dairy products as defined in FAC Sections 61933, 61934, and 61935, except those products listed above, the product to be sampled must not exceed 4 ounces by weight.~~
- ~~(b) The sample must be provided to the consumer in an open container.~~
- ~~(c) A representative of the distributor or wholesale customer must offer the sample.~~
- (3) The samples will be limited to one per customer.
- (4) The period of time a specific product or flavor variation is sampled shall not exceed one week in the same retail location. Said location may be returned to with a different product or flavor variation, but not again with the same product or flavor variation until at least 120 days has elapsed.
- (5) The entity providing the samples must keep records containing the following information: identity of samples distributed, the number of samples distributed, the period of time the samples were distributed, and the physical location where the samples were distributed.
- (b) Generic products in unlabeled containers are not subject to the restrictions in “(a)” of this section.

**Section 1931. Meeting Competition—Retail Sales by Wholesale Customers.**

**Authority cited: Sections 407 and 61341, Food and Agricultural Code**

**Reference: Sections 61382, 61383, and 61384, Food and Agricultural Code**

Wholesale customers may meet a lawful competitive price of dairy products of similar defined composition or standard ~~only within the same geographic marketing area~~. It shall be lawful to meet a competitive price subject to the following provisions:

- (a) The competitive price being met must be ~~a current price of the competition and shall~~ offered at the same time by the competitor, and shall be the same price or higher. ~~be not less than the competitor's price.~~
- (b) A lawful competitive price may be met whether or not that price results in a below cost sale by the wholesale customer.
- (c) The competitive price being met must be within the same geographic marketing area. "Geographic area" is defined as either Northern California or Southern California. Northern California consists of those counties north of the Tehachapi Mountains, and Southern California consists of those counties south of the Tehachapi Mountains.

**Section 1932. Meeting Competition – Multi-Pack Containers Unit Price.**

**Authority cited: Sections 407 and 61341, Food and Agricultural Code**

**Reference: Sections 61382, 61383, and 61384, Food and Agricultural Code**

A multi-unit price is defined as the total price paid for more than one unit of product. A lawful ~~Mmulti-packunit container~~ prices may be met by a wholesale customer by dividing the number of units ~~sold together within a container~~ to arrive at an individual unit price.

Example: A wholesale customer's lawful multi-packunit container of price for two one-gallon milk ~~units~~ containers is ~~priced at~~ \$4.20. ~~A~~ Another wholesale customer may meet competition by dividing the ~~price of the multi-pack units price~~ by two and lawfully sell a one-gallon unit for \$2.10 (\$4.20 divided by 2 = \$2.10 for a one-gallon milk unit.) When the number to be divided is an odd number, the sum shall be rounded up.

~~It is unlawful to meet a price with sizes that differ from the dairy product being met.~~

~~—Example: The price of two half-gallon units may not meet the price of a one gallon unit.~~

It is unlawful to divide the weight or volume of a dairy product in a single container ~~dairy product~~ to arrive at a per unit price ~~per pound~~ for meeting competition purposes. For example, the price of a five-gallon pound single tub container of butter may not be divided by five to arrive at a one-pound unit price.

### **Section 1933. Sweepstakes**

**Authority cited: Sections 407 and 61341, Food and Agricultural Code**

**Reference: Sections 61383 and 61384**

For purposes of determining compliance with sales below cost provisions in FAC Section 61384, the total cost of all prizes and of the advertising, promotion, and administration associated with the sweepstakes or drawing shall be prorated among all applicable products sold within the area of promotion during the term of the sweepstakes or drawing. This activity is subject to all record-keeping requirements. Information to be maintained includes: how the sweepstakes or drawing was advertised, who qualifies, the value of the prizes, and the cost associated with conducting the sweepstakes or drawing.